

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1321**

Chapter 23, Laws of 2005

59th Legislature  
2005 Regular Session

TERS PLAN 1--INSTRUCTIONAL POSITIONS

EFFECTIVE DATE: 7/24/05

Passed by the House March 7, 2005  
Yeas 95 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 4, 2005  
Yeas 41 Nays 0

BRAD OWEN

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**President of the Senate**

Approved April 12, 2005.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1321** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

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**Chief Clerk**

FILED

April 12, 2005 - 12:20 p.m.

**Secretary of State  
State of Washington**

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**HOUSE BILL 1321**

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Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Representatives Fromhold, Conway, Crouse, Simpson, Morrell, Upthegrove, Linville, Kenney and McDermott; by request of Select Committee on Pension Policy

Read first time 01/20/2005. Referred to Committee on Appropriations.

1            AN ACT Relating to allowing members of the teachers' retirement  
2 system plan 1 who are employed less than full time as psychologists,  
3 social workers, nurses, physical therapists, occupational therapists,  
4 or speech language pathologists or audiologists to annualize their  
5 salaries when calculating their average final compensation; and  
6 amending RCW 41.32.010.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
9 as follows:

10            As used in this chapter, unless a different meaning is plainly  
11 required by the context:

12            (1)(a) "Accumulated contributions" for plan 1 members, means the  
13 sum of all regular annuity contributions and, except for the purpose of  
14 withdrawal at the time of retirement, any amount paid under RCW  
15 41.50.165(2) with regular interest thereon.

16            (b) "Accumulated contributions" for plan 2 members, means the sum  
17 of all contributions standing to the credit of a member in the member's  
18 individual account, including any amount paid under RCW 41.50.165(2),  
19 together with the regular interest thereon.

1 (2) "Actuarial equivalent" means a benefit of equal value when  
2 computed upon the basis of such mortality tables and regulations as  
3 shall be adopted by the director and regular interest.

4 (3) "Annuity" means the moneys payable per year during life by  
5 reason of accumulated contributions of a member.

6 (4) "Member reserve" means the fund in which all of the accumulated  
7 contributions of members are held.

8 (5)(a) "Beneficiary" for plan 1 members, means any person in  
9 receipt of a retirement allowance or other benefit provided by this  
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
12 in receipt of a retirement allowance or other benefit provided by this  
13 chapter resulting from service rendered to an employer by another  
14 person.

15 (6) "Contract" means any agreement for service and compensation  
16 between a member and an employer.

17 (7) "Creditable service" means membership service plus prior  
18 service for which credit is allowable. This subsection shall apply  
19 only to plan 1 members.

20 (8) "Dependent" means receiving one-half or more of support from a  
21 member.

22 (9) "Disability allowance" means monthly payments during  
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

25 (i) All salaries and wages paid by an employer to an employee  
26 member of the retirement system for personal services rendered during  
27 a fiscal year. In all cases where compensation includes maintenance  
28 the employer shall fix the value of that part of the compensation not  
29 paid in money.

30 (ii) For an employee member of the retirement system teaching in an  
31 extended school year program, two consecutive extended school years, as  
32 defined by the employer school district, may be used as the annual  
33 period for determining earnable compensation in lieu of the two fiscal  
34 years.

35 (iii) "Earnable compensation" for plan 1 members also includes the  
36 following actual or imputed payments, which are not paid for personal  
37 services:

1 (A) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an employer  
3 to an individual in lieu of reinstatement in a position which are  
4 awarded or granted as the equivalent of the salary or wages which the  
5 individual would have earned during a payroll period shall be  
6 considered earnable compensation and the individual shall receive the  
7 equivalent service credit.

8 (B) If a leave of absence, without pay, is taken by a member for  
9 the purpose of serving as a member of the state legislature, and such  
10 member has served in the legislature five or more years, the salary  
11 which would have been received for the position from which the leave of  
12 absence was taken shall be considered as compensation earnable if the  
13 employee's contribution thereon is paid by the employee. In addition,  
14 where a member has been a member of the state legislature for five or  
15 more years, earnable compensation for the member's two highest  
16 compensated consecutive years of service shall include a sum not to  
17 exceed thirty-six hundred dollars for each of such two consecutive  
18 years, regardless of whether or not legislative service was rendered  
19 during those two years.

20 (iv) For members employed less than full time under written  
21 contract with a school district, or community college district, in an  
22 instructional position, for which the member receives service credit of  
23 less than one year in all of the years used to determine the earnable  
24 compensation used for computing benefits due under RCW 41.32.497,  
25 41.32.498, and 41.32.520, the member may elect to have earnable  
26 compensation defined as provided in RCW 41.32.345. For the purposes of  
27 this subsection, the term "instructional position" means a position in  
28 which more than seventy-five percent of the member's time is spent as  
29 a classroom instructor (including office hours), a librarian, a  
30 psychologist, a social worker, a nurse, a physical therapist, an  
31 occupational therapist, a speech language pathologist or audiologist,  
32 or a counselor. Earnable compensation shall be so defined only for the  
33 purpose of the calculation of retirement benefits and only as necessary  
34 to insure that members who receive fractional service credit under RCW  
35 41.32.270 receive benefits proportional to those received by members  
36 who have received full-time service credit.

37 (v) "Earnable compensation" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW  
2 41.04.340, 28A.400.210, or 28A.310.490;

3 (B) Remuneration for unused annual leave in excess of thirty days  
4 as authorized by RCW 43.01.044 and 43.01.041.

5 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
6 salaries or wages earned by a member during a payroll period for  
7 personal services, including overtime payments, and shall include wages  
8 and salaries deferred under provisions established pursuant to sections  
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
10 shall exclude lump sum payments for deferred annual sick leave, unused  
11 accumulated vacation, unused accumulated annual leave, or any form of  
12 severance pay.

13 "Earnable compensation" for plan 2 and plan 3 members also includes  
14 the following actual or imputed payments which, except in the case of  
15 (b)(ii)(B) of this subsection, are not paid for personal services:

16 (i) Retroactive payments to an individual by an employer on  
17 reinstatement of the employee in a position or payments by an employer  
18 to an individual in lieu of reinstatement in a position which are  
19 awarded or granted as the equivalent of the salary or wages which the  
20 individual would have earned during a payroll period shall be  
21 considered earnable compensation, to the extent provided above, and the  
22 individual shall receive the equivalent service credit.

23 (ii) In any year in which a member serves in the legislature the  
24 member shall have the option of having such member's earnable  
25 compensation be the greater of:

26 (A) The earnable compensation the member would have received had  
27 such member not served in the legislature; or

28 (B) Such member's actual earnable compensation received for  
29 teaching and legislative service combined. Any additional  
30 contributions to the retirement system required because compensation  
31 earnable under (b)(ii)(A) of this subsection is greater than  
32 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
33 by the member for both member and employer contributions.

34 (11) "Employer" means the state of Washington, the school district,  
35 or any agency of the state of Washington by which the member is paid.

36 (12) "Fiscal year" means a year which begins July 1st and ends June  
37 30th of the following year.

1 (13) "Former state fund" means the state retirement fund in  
2 operation for teachers under chapter 187, Laws of 1923, as amended.

3 (14) "Local fund" means any of the local retirement funds for  
4 teachers operated in any school district in accordance with the  
5 provisions of chapter 163, Laws of 1917 as amended.

6 (15) "Member" means any teacher included in the membership of the  
7 retirement system. Also, any other employee of the public schools who,  
8 on July 1, 1947, had not elected to be exempt from membership and who,  
9 prior to that date, had by an authorized payroll deduction, contributed  
10 to the member reserve.

11 (16) "Membership service" means service rendered subsequent to the  
12 first day of eligibility of a person to membership in the retirement  
13 system: PROVIDED, That where a member is employed by two or more  
14 employers the individual shall receive no more than one service credit  
15 month during any calendar month in which multiple service is rendered.  
16 The provisions of this subsection shall apply only to plan 1 members.

17 (17) "Pension" means the moneys payable per year during life from  
18 the pension reserve.

19 (18) "Pension reserve" is a fund in which shall be accumulated an  
20 actuarial reserve adequate to meet present and future pension  
21 liabilities of the system and from which all pension obligations are to  
22 be paid.

23 (19) "Prior service" means service rendered prior to the first date  
24 of eligibility to membership in the retirement system for which credit  
25 is allowable. The provisions of this subsection shall apply only to  
26 plan 1 members.

27 (20) "Prior service contributions" means contributions made by a  
28 member to secure credit for prior service. The provisions of this  
29 subsection shall apply only to plan 1 members.

30 (21) "Public school" means any institution or activity operated by  
31 the state of Washington or any instrumentality or political subdivision  
32 thereof employing teachers, except the University of Washington and  
33 Washington State University.

34 (22) "Regular contributions" means the amounts required to be  
35 deducted from the compensation of a member and credited to the member's  
36 individual account in the member reserve. This subsection shall apply  
37 only to plan 1 members.

1 (23) "Regular interest" means such rate as the director may  
2 determine.

3 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
4 payments based on the sum of annuity and pension, or any optional  
5 benefits payable in lieu thereof.

6 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
7 monthly payments to a retiree or beneficiary as provided in this  
8 chapter.

9 (25) "Retirement system" means the Washington state teachers'  
10 retirement system.

11 (26)(a) "Service" for plan 1 members means the time during which a  
12 member has been employed by an employer for compensation.

13 (i) If a member is employed by two or more employers the individual  
14 shall receive no more than one service credit month during any calendar  
15 month in which multiple service is rendered.

16 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
17 sick leave may be creditable as service solely for the purpose of  
18 determining eligibility to retire under RCW 41.32.470.

19 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
20 state retirement system that covers teachers in public schools may be  
21 applied solely for the purpose of determining eligibility to retire  
22 under RCW 41.32.470.

23 (b) "Service" for plan 2 and plan 3 members, means periods of  
24 employment by a member for one or more employers for which earnable  
25 compensation is earned subject to the following conditions:

26 (i) A member employed in an eligible position or as a substitute  
27 shall receive one service credit month for each month of September  
28 through August of the following year if he or she earns earnable  
29 compensation for eight hundred ten or more hours during that period and  
30 is employed during nine of those months, except that a member may not  
31 receive credit for any period prior to the member's employment in an  
32 eligible position except as provided in RCW 41.32.812 and 41.50.132;

33 (ii) If a member is employed either in an eligible position or as  
34 a substitute teacher for nine months of the twelve month period between  
35 September through August of the following year but earns earnable  
36 compensation for less than eight hundred ten hours but for at least six  
37 hundred thirty hours, he or she will receive one-half of a service  
38 credit month for each month of the twelve month period;

1 (iii) All other members in an eligible position or as a substitute  
2 teacher shall receive service credit as follows:

3 (A) A service credit month is earned in those calendar months where  
4 earnable compensation is earned for ninety or more hours;

5 (B) A half-service credit month is earned in those calendar months  
6 where earnable compensation is earned for at least seventy hours but  
7 less than ninety hours; and

8 (C) A quarter-service credit month is earned in those calendar  
9 months where earnable compensation is earned for less than seventy  
10 hours.

11 (iv) Any person who is a member of the teachers' retirement system  
12 and who is elected or appointed to a state elective position may  
13 continue to be a member of the retirement system and continue to  
14 receive a service credit month for each of the months in a state  
15 elective position by making the required member contributions.

16 (v) When an individual is employed by two or more employers the  
17 individual shall only receive one month's service credit during any  
18 calendar month in which multiple service for ninety or more hours is  
19 rendered.

20 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
21 sick leave may be creditable as service solely for the purpose of  
22 determining eligibility to retire under RCW 41.32.470. For purposes of  
23 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
24 to two service credit months. Use of less than forty-five days of sick  
25 leave is creditable as allowed under this subsection as follows:

26 (A) Less than eleven days equals one-quarter service credit month;

27 (B) Eleven or more days but less than twenty-two days equals one-  
28 half service credit month;

29 (C) Twenty-two days equals one service credit month;

30 (D) More than twenty-two days but less than thirty-three days  
31 equals one and one-quarter service credit month;

32 (E) Thirty-three or more days but less than forty-five days equals  
33 one and one-half service credit month.

34 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
35 state retirement system that covers teachers in public schools may be  
36 applied solely for the purpose of determining eligibility to retire  
37 under RCW 41.32.470.

1 (viii) The department shall adopt rules implementing this  
2 subsection.

3 (27) "Service credit year" means an accumulation of months of  
4 service credit which is equal to one when divided by twelve.

5 (28) "Service credit month" means a full service credit month or an  
6 accumulation of partial service credit months that are equal to one.

7 (29) "Teacher" means any person qualified to teach who is engaged  
8 by a public school in an instructional, administrative, or supervisory  
9 capacity. The term includes state, educational service district, and  
10 school district superintendents and their assistants and all employees  
11 certificated by the superintendent of public instruction; and in  
12 addition thereto any full time school doctor who is employed by a  
13 public school and renders service of an instructional or educational  
14 nature.

15 (30) "Average final compensation" for plan 2 and plan 3 members,  
16 means the member's average earnable compensation of the highest  
17 consecutive sixty service credit months prior to such member's  
18 retirement, termination, or death. Periods constituting authorized  
19 leaves of absence may not be used in the calculation of average final  
20 compensation except under RCW 41.32.810(2).

21 (31) "Retiree" means any person who has begun accruing a retirement  
22 allowance or other benefit provided by this chapter resulting from  
23 service rendered to an employer while a member.

24 (32) "Department" means the department of retirement systems  
25 created in chapter 41.50 RCW.

26 (33) "Director" means the director of the department.

27 (34) "State elective position" means any position held by any  
28 person elected or appointed to statewide office or elected or appointed  
29 as a member of the legislature.

30 (35) "State actuary" or "actuary" means the person appointed  
31 pursuant to RCW 44.44.010(2).

32 (36) "Substitute teacher" means:

33 (a) A teacher who is hired by an employer to work as a temporary  
34 teacher, except for teachers who are annual contract employees of an  
35 employer and are guaranteed a minimum number of hours; or

36 (b) Teachers who either (i) work in ineligible positions for more  
37 than one employer or (ii) work in an ineligible position or positions  
38 together with an eligible position.

1 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
2 through September 1, 1991, means a position which normally requires two  
3 or more uninterrupted months of creditable service during September  
4 through August of the following year.

5 (b) "Eligible position" for plan 2 and plan 3 on and after  
6 September 1, 1991, means a position that, as defined by the employer,  
7 normally requires five or more months of at least seventy hours of  
8 earnable compensation during September through August of the following  
9 year.

10 (c) For purposes of this chapter an employer shall not define  
11 "position" in such a manner that an employee's monthly work for that  
12 employer is divided into more than one position.

13 (d) The elected position of the superintendent of public  
14 instruction is an eligible position.

15 (38) "Plan 1" means the teachers' retirement system, plan 1  
16 providing the benefits and funding provisions covering persons who  
17 first became members of the system prior to October 1, 1977.

18 (39) "Plan 2" means the teachers' retirement system, plan 2  
19 providing the benefits and funding provisions covering persons who  
20 first became members of the system on and after October 1, 1977, and  
21 prior to July 1, 1996.

22 (40) "Plan 3" means the teachers' retirement system, plan 3  
23 providing the benefits and funding provisions covering persons who  
24 first become members of the system on and after July 1, 1996, or who  
25 transfer under RCW 41.32.817.

26 (41) "Index" means, for any calendar year, that year's annual  
27 average consumer price index, Seattle, Washington area, for urban wage  
28 earners and clerical workers, all items compiled by the bureau of labor  
29 statistics, United States department of labor.

30 (42) "Index A" means the index for the year prior to the  
31 determination of a postretirement adjustment.

32 (43) "Index B" means the index for the year prior to index A.

33 (44) "Index year" means the earliest calendar year in which the  
34 index is more than sixty percent of index A.

35 (45) "Adjustment ratio" means the value of index A divided by index  
36 B.

37 (46) "Annual increase" means, initially, fifty-nine cents per month

1 per year of service which amount shall be increased each July 1st by  
2 three percent, rounded to the nearest cent.

3 (47) "Member account" or "member's account" for purposes of plan 3  
4 means the sum of the contributions and earnings on behalf of the member  
5 in the defined contribution portion of plan 3.

6 (48) "Separation from service or employment" occurs when a person  
7 has terminated all employment with an employer.

8 (49) "Employed" or "employee" means a person who is providing  
9 services for compensation to an employer, unless the person is free  
10 from the employer's direction and control over the performance of work.  
11 The department shall adopt rules and interpret this subsection  
12 consistent with common law.

Passed by the House March 7, 2005.

Passed by the Senate April 4, 2005.

Approved by the Governor April 12, 2005.

Filed in Office of Secretary of State April 12, 2005.